IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 190 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DAKSHABEN CHIMANBHAI PATEL

Versus

HASMUKHBHAI VAMALIDAS PATEL

Appearance:

MR JB PARDIWALA for Petitioner

MR JM BUDDHBHATTI for Respondent No. 1

MR RC JANI for Respondent No. 2, 3

MR BY MANKAD APP for Respondent No.4- State.

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 07/12/2000

ORAL JUDGEMENT

Original complainant of Criminal Case No. 2361 of 1993 which was finally decided by the learned Metropolitan Magistrate, Court No.10, Ahmedabad (who will be referred to as the learned Magistrate for the sake of

brevity), has by filing this Criminal Revision Application under Sec.397 of the Criminal Procedure Code, 1973 (for short " the Cr.P.C."), challenged the legality, correctness and propriety of judgment dt. 12th March, 1999 rendered by the learned Metropolitan Magistrate, Court No.10, Ahmedabad in the aforesaid criminal case.

2. The revision opponent nos. 1,2 and 3 of this present Criminal Revision Application are the original accused nos. 1,2 and 3 respectively in aforesaid criminal case.

3. When this Criminal Revision Application is taken up for final hearing, the learned advocates for both the parties jointly submitted that the judgment which is challenged in this Criminal Revision Application be set aside by giving suitable directions to the learned Chief Metropolitan Magistrate, Ahmedabad, without assigning any reasons in order of this Court.

4. Having heard the learned advocates for both the parties and on perusal of Record & Proceedings of the case and on going through the impugned judgment challenged in this Criminal Revision Application, and after considering the grounds stated in memo of this Criminal Revision Application, this Court is of the view that the impugned judgment is required to be set aside.

5. In view of what is stated hereinabove, the judgment dt. 12/3/1999 rendered by the learned Magistrate in Criminal Case No. 2361 of 1993 is set aside and the said Criminal Case No.2361 of 1993 is ordered to be remanded back to the learned Chief Metropolitan Magistrate, Ahmedabad with a direction to him to record plea of accused, afresh and record evidence of the witnesses, if any, as may be produced by both the parties and decide the case strictly on merits, in accordance with law, without being influenced by the order of this Court.

6. As Criminal Case is of the year 1993, the learned Chief Metropolitan Magistrate, Ahmedabad is directed to expedite the trial of the case and dispose of the same as early as possible, preferably within six months from the date of receipt of writ from this Court.

7. In view of what is stated hereinabove, this Criminal Revision Application stands disposed of with the above directions. Rule is made absolute to the aforesaid extent.

Date: 7/12/2000. (H.H.MEHTA,J.)

ccshah